

Administrative Office of the Courts

Chief Justice Richard C. Howe
Chairman, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Myron K. March
Deputy Court Administrator

**To: Heather Mackenzie-Campbell, Audit Manager
Rick Schwermer, Asst. Court Administrator**

From:  Brent Johnson, General Counsel

Re: Justice Court Fines on Appeal

Date: May 15, 2000

I have reviewed statutes and rules and there is not anything that specifically states that the fine paid to the justice court shall be sent to the district court upon the filing of a notice of appeal. Rule 4-608(2)(E) states that "the trial de novo shall be conducted in the district court as if the matter were originally filed in that court and the disposition of fine revenue shall be according to district court procedures." The intent of this language, and the statute upon which it is based, is to treat the case as if it were originally filed in the district court. Conversely, the case is treated as if it did not exist, for most purposes, in the justice court. This is confirmed by the fact that once a case is appealed to the district court, according to case law, the case cannot be remanded to the justice court under any circumstances.

Based on this, it not only makes sense, but is plain from language, that fine money must be sent to the district court, so that the district court can ultimately make decisions concerning that money and control its disposition. We have told other justice courts that this is the process. Apparently some justice courts are upset with this revenue loss. The fine is not intended to represent revenue for the local jurisdiction. The criminal legal system is concerned with justice and punishment and hopefully we do not lose site of that fact by arguing about revenue. Please let me know if you have additional questions about this.

**The mission of the Utah judiciary is to provide the people an open, fair,
efficient, and independent system for the advancement of justice under the law.**